



California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

Certified Mail: 7003 1680 0000 6174 8180

December 5, 2006

Mr. Bruce Martin, Chief
Fremont City Fire Department
39100 Liberty Street
Fremont, California 94538

Dear Mr. Martin:

The California Environmental Protection Agency (Cal/EPA) conducted a program evaluation of Fremont City Fire Department's Certified Unified Program Agency (CUPA) on November 16, 2006. The evaluation was comprised of an in-office program review. The State evaluator completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, preliminary corrective actions, and timeframes. Two additional evaluation documents are the Program Observations and Recommendations and the Examples of Outstanding Program Implementation.

The enclosed Summary of Findings is now considered Final and based on review, I find that Fremont City Fire Department's program performance is satisfactory with some improvement needed. To complete the evaluation process, please provide deficiency status reports to Cal/EPA every 90 days, detailing your progress toward correcting the identified deficiencies, using the optional format enclosed. The first status report is due on February 14, 2007.

Cal/EPA also noted during this evaluation that Fremont City Fire Department has worked to bring about a number of local program innovations, including: the completion of routine inspections for all Hazardous Materials Business Plan and Hazardous Waste Generator facilities long before their standard three year inspection cycle and the use of red folders in CUPA facility files to clearly distinguish confidential documents from public documents. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Johnson", with a long, sweeping horizontal line extending to the right.

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosures

cc: Please see next page.

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cc: Mr. Jay Swardenski, Hazardous Materials Program Manager (Sent Via Email)
Fremont City Fire Department
39100 Liberty Street
Fremont, California 94538

Mr. Kevin Graves (Sent Via Email)
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Mr. Charles McLaughlin (Sent Via Email)
Department of Toxic Substances Control
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Sacramento, California 95812-0806

Ms. Vickie Sakamoto (Sent Via Email)
Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Mr. Brian Abeel (Sent Via Email)
Governor's Office of Emergency Services
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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: Fremont Fire Department

Evaluation Date: November 16, 2006

EVALUATION TEAM

Cal/EPA: Kareem Taylor

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	<p>On the Annual Enforcement Summary Report (Summary Report 4) for fiscal year (FY) 05/06, the CUPA did not adequately report the number of facilities with violation types and informal enforcement actions for each program element. It is apparent from review of the facility inspection reports and the Annual Inspection Summary Report (Summary Report 3) that the CUPA is identifying violations and is obtaining return to compliance (RTC). The FY 05/06 Summary Report 4 incorrectly conveys that the CUPA has only identified one facility with "other" violations and two facilities that have had informal enforcement actions taken.</p> <p>Citation: Title 27, Section 15290 (a)(3)</p>	<p>By September 30, 2007, correctly report the following information into the FY 06/07 Annual Enforcement Summary Report:</p> <ul style="list-style-type: none"> • In the "other" column, report the number of facilities with violations. • In the "no. of informal enforcement actions" column, report the number of facilities that have received informal enforcement actions. <p>Report Annual Enforcement Summary Report information correctly for all subsequent reports.</p>
2	<p>The CUPA is not following up on minor and Class II violations identified in some of the inspection reports reviewed. The CUPA program manager has stated that some</p>	<p>By November 16, 2007, review the inspection reports created by past inspectors no longer with Fremont Fire Department and follow up on all</p>

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<p>inspection reports with violations have not been followed up on because of staff changes. The CUPA is routinely reinspecting many of its facilities that have been cited for violations and RTC has been documented in many of the inspection reports reviewed.</p> <p>Citation: HSC, Chapter 6.5, Section 25187.8 (h)</p>	<p>facilities with identified violations that have not RTC. Facilities may either submit written certification of return to compliance to the CUPA or the CUPA may reinspect facilities with violations. The CUPA must document that facilities have RTC either by creating a new inspection report or noting corrections on previous inspection reports.</p>
<p>3 The CUPA has not developed four written procedures required for the administration of the Unified Program. The four administrative procedures are Public Participation, Unified Program Meetings, Self-Auditing, and Reporting. Although the CUPA has no written procedure, it has a Hazmat Technical Committee, Survey, and other mechanisms to solicit public and facility input regarding the Unified Program. The CUPA also participates in Cooperating Agency meetings with all CUPAs in Alameda County. The CUPA has also prepared its annual self-audit reports on time, that include all the require elements. The CUPA has prepared and submitted all of its summary reports.</p> <p>Citation: Title 27, Section 15180 (a) (1), (7), (9), and (10)</p>	<p>By February 16, 2007, develop administrative procedures for Public Participation, Unified Program Meetings, Self-Auditing, and Reporting. Cal/EPA has provided the requested templates for the administrative procedures during this evaluation.</p>

CUPA Representative

Jay Swardenski

(Print Name)

original signed

(Signature)

Evaluation Team Leader

Kareem Taylor

(Print Name)

original signed

(Signature)

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section simply address those areas not specifically required of the CUPA by regulation or statute and are provided for continuous program improvement only.

1. **Observation:** On the facility inspection reports reviewed, none contain a signed consent to inspect by a facility owner/operator. Signed consent on the inspection report is important because it strengthens any potential enforcement case against a noncompliant facility.

Recommendation: On the inspection report form, add a space where an owner/operator can grant consent by signing his/her name on the inspection report. The CUPA will then be documenting consent to inspect.

2. **Observation:** The CUPA's inspection report forms do not have an area where facility owners/operators may certify return to compliance by signing the report.

Recommendation: On the existing inspection forms, include a certification statement that says something like "by signing below I certify that all the identified violations have been corrected." After the statement, include a space for the owner/operator to place their signature. The CUPA may also create a separate RTC form to leave at a facility along with a notice to comply. Submittal of a signed RTC form by a facility will document certification of return to compliance. I believe this is the spirit of the law.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. Red folders in the facility files clearly distinguish confidential documents from public documents. This decreases the likelihood of accidental disclosure of sensitive information by CUPA staff.
2. The CUPA's routine inspection frequencies for the Hazardous Materials Business Plan and the Hazardous Waste Generator program elements are met before the end of the scheduled three year frequency cycle.
 - The Hazardous Materials Business Plan program routine inspection frequency percentages for FYs 03/04, 04/05, and 05/06 respectively are: 46%, 51%, and 57%.
 - The Hazardous Waste Generator program routine inspection frequency percentages for FYs 03/04, 04/05, and 05/06 respectively are: 46%, 60%, and 72%.
3. The Fremont Fire Department attends the Alameda County District Attorney's Environmental Crimes Strike Force. The CUPA meets monthly with the District Attorney's staff and other federal, state and local environmental regulators working within the county. The CUPA also maintains formal contact with the other environmental regulatory agencies through monthly meetings. These meetings allow staff to coordinate CUPA activities, to share information on regulatory compliance and enforcement issues, to maintain consistency on CUPA issues, and to provide a forum for training.
4. The CUPA's Program Manager has served as the Fremont Fire Department's liaison to Coastal OES's Local Emergency Planning Committee (LEPC) in 2005.